

REMARKS:

The paragraphs below are numbered so as to correspond to the numbered paragraphs in the Office Action.

1. The Office Action stated that various disclosures did not comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609, specifically that some patent numbers were incorrectly listed. Some patents which were design patents were incorrectly listed as utility patents in the disclosure. These patent number references have been corrected in the amended paragraph [0035] above. The applicant would contend that this amendment does not introduce new matter into the specification. Rather it is the correction of typographical errors.
In regard to the inadmissibility of Internet references, the Applicant cites 37 CFR 1.65 (b) (2) and MPEP § 2001.06, which states “All individuals covered by 37 CFR 1.56 (reproduced in MPEP § 2001.01) have a duty to disclose to the U.S. Patent and Trademark Office all material information they are aware of regardless of the source of or how they become aware of the information.” The Applicant would contend that if one is to comply with this regulation then information found on the Internet regarding prior art should be accepted in the disclosure process. The Applicant further contends that submission of an Internet Universal Resource Locator (URL), along with a printout of the published content at that URL, is the standard means available to make reference to Internet information sources. In many cases this may be the only recourse an Applicant has to disclose information which may be available only on the Internet.
2. The Office Action states that the drawings were objected to under CFR 1.83(a), and specifically that a feature referenced in claim 11 had been omitted from the drawings. The Applicant attests that this feature, referenced as item 57, is present in the drawings referenced as FIG. 4H, FIG. 4I, FIG. 4J, and FIG. 4K. As such the Applicant respectively submits that the drawings do not need to be amended to address Office Action #2. However, the Applicant has amended claim 11, to clarify the function of feature 57, which is now referenced as a clasping means.

3. & 4. The Office Action states that the claims in their entirety are imprecise and require more definite statements. Most of the claims have been amended, with the purpose of overcoming this objection.
5. & 6. The Office Action identifies patent number US-213,580 by Lindheim as anticipating Applicant's independent claim 1, and thus dependent claims 2 and 4 as well. Claim 1 is herein amended to be combined with claim 6, and claim 6 canceled. The Applicant would contend that the amended claim 1 is now not anticipated by the teachings of Lindheim. Lindheim makes no mention of handles. The feature of handles in claim 1 is key to enabling usage of the flared drawstring bag as a cell phone carrier, where it is necessary that one be able to quickly withdraw a cell phone that is ringing. The combination of features in claim 1 represents a new and non-obvious invention versus that of Lindheim. In fact Lindheim teaches away from the idea of the flared opening of the bag facilitating removal of items from the bag. She states in her seventh paragraph – "While the tobacco is being placed in portion A, to be compressed as usual, the flaring portion serves to direct it in its course." The flared opening in Lindheim's bag is clearly intended to facilitate filling the bag with loose material such as ground tobacco. Further, the addition of handles to the bag of Lindheim would compromise the usage of Lindheim's bag. The presence of handles would complicate folding the filled bag of tobacco to a "neat salable package, as seen in Fig. 3", as Lindheim describes one of the benefits of her invention in her paragraph 8. Another argument that the Applicant's invention is novel over that of Lindheim is that Lindheim's invention has long been available to the public, and no cell-phone carrier similar to the Applicant's or to the bag of Lindheim has been implemented. Further, the field of cell phone carriers is one of Crowded Art, as evidenced by documents disclosed by the Applicant, whereby seemingly small improvements are made to existing carriers. The objection within the Office Action in regard to the use of handles, in light of Tabler (US-665,942) is discussed below.
7. , 8. & 9. The Office Action's objection to claim 3 states that Kahl's pending patent (2005/0072698), in combination with Lindheim's anticipates the use of

indicia as a feature for the Applicant's invention. The Applicant would further contend that the field of art described in Kahl's patent application is foreign to the field of art described in Lindheim's patent, and to the field of art related to the Applicant's invention. Kahl's usage of shrinkable plastic film is in a field foreign to one skilled in the art applied by Lindheim. A combination of features from these two inventions would be non-obvious, because one skilled in the art associated with either one would have no likelihood to become aware of the other. Further, the Applicant would contend that Kahl's usage of a plastic skin conforming to the outside of a cell phone bears no similarity to the Applicant's invention. The Applicant would classify Kahl's invention along with the class of cell phone carriers described in paragraph [0018]. It would have many of the same deficiencies described therein, such as that the plastic would become opaque over time and that the function of cell phone features such as integrated cameras would be compromised by the plastic film. The Applicant would respectfully submit that the embodiments of Applicant's inventions which employ use of indicia are novel and unobvious for the reasons stated above.

10. The Office Action rejects claims 5, 9, 11-15 and 19 as being unpatentable over the combination of Lindheim's draw-string tobacco pouch and Furlow's commuter case invention (US-4, 974, 709). The applicant would contend that former claim 11, and all related dependent claims bear no relation to the bag of Lindheim, and are in no way anticipated by Lindheim. The basic embodiment entailed in claim 11, described in paragraphs [0070] through [0081], and depicted in drawings Fig. 4a through 4K, is markedly different from the bag of Lindheim. Claim 10 describes a bag made of stretchable material, and which does not have a flared opening when it is assembled. The flared opening is achieved when the bag opening is stretched and held in place by the clasp means 57. Lindheim allows that her bag could have straight sides, but gives no indication that making use of stretchable fabric to achieve a flared opening would be of benefit to her invention. Further, Lindheim teaches away from the use of stretchable fabric in her invention, in view of her goal of achieving a neatly folding package. This goal would be compromised if stretchable fabric were used, because stretchable fabric

would not serve to effectively compress the tobacco. The embodiment of claim 11 is further clearly differentiated from Lindheim in substituting a stiff wire-like means in place of the drawstring means, and in the specification of clasping means 57 attached to the bag opening and assembled onto the stiff wire-like means. Moreover, since it is contended that claim 10 bears no relation to the bag of Lindheim, the distinguishing feature of handles is not necessary to differentiate the cell phone carrier of claim 11 from Lindheim. As such, a requirement of handles has not been added to claim 11 and claim 16 has not been canceled. The Application would respectfully submit that no combination of features from the inventions of Lindheim supports rejection of former claims 11-14, and that for the reasons given above current claims 11-14 describe novel and unobvious embodiments of Applicant's invention. The Applicant would further respectfully submit that claim 5 and claims 9, 15 & 19 describe novel and unobvious embodiments of the Applicant's invention.

11. The Office Action rejects claims 6 (now canceled), 8 (now canceled), 10 (now canceled), 16, 18 (now canceled), and 20 (now canceled). These are rejected on the basis of reasons given previously in the Office Action, and on the basis of a proposed combination of Lindheim's bag and Tabler's mail bag invention (US-665, 942). The feature of Tabler's mail bag which is highlighted in the Office Action is the incorporation of handles at the sides of the bag. The usage and purpose of the handles depicted in Tabler's invention are distinctly different from those employed in the Applicant's invention. Tabler's handles are placed well below the opening of the mail bag and provide no assistance in opening the bag. The placement of the handles in the Applicant's invention is important to the intended function of a cell phone carrier, in that they enable quickly opening the bag which would be necessary when trying to answer a ringing cell phone. The Applicant would further argue that Tabler's handles, by their depicted placement, are clearly intended to facilitate making the mail bag "easily handled" (see line 22 of page 2 of Tabler). Handles positioned thus are clearly for handling a heavy-loaded mail bag, for example for moving or lifting the bag. The handles employed by the Applicant are solely for opening the bag, and must be positioned

correctly to achieve their purpose. The applicant would further contend that combining the inventions of Lindheim and Tabler is not obvious. Each invention is complete unto itself, and modifying either one as the Office Action suggests would in no way benefit either invention. As discussed above, modifying Lindheim's invention to include handles, would compromise the intended purpose. Further, modifying Tabler's invention to feature a flared opening would compromise the goal of achieving an extension top that "by its own weight will drop down into the body of the bag" (see line 15-17 on page 2 of Tabler). Introduction of an extension with a flared opening would tend to hold the extension out of the body of the bag. Thus a combination of Tabler's and Lindheim's inventions would compromise the goals and purpose of either invention, and the combination of these inventions would be counter-intuitive. Further, a simple combination would still not achieve the goal of the Applicant's cell phone carrier, because the handles depicted in Tabler need to be repositioned.

12. The Office Action rejects claims 7 and 17 as being anticipated by a combination of Lindheim's bag and a feature of Pollak's carrying bag (US-3,225,806). The Applicant would contend that the "additional pocket" described and depicted in Pollak, bears no resemblance to the badge holder feature described and depicted in the Applicant's patent application. The badge holder shown in Fig. 5 clearly shows a holder which keeps the badge visible at all times. Pollak neither depicts nor describes a pocket with an opening such as to allow an identification badge contained in the pocket to be visible at all times. The Applicant would respectively submit that Pollak contains no teaching to serve as the basis for rejection of claims 7 and 17. The Applicant further respectfully submits that claims 7 and 17 describe novel and unobvious embodiments of Applicant's invention.

Conclusion

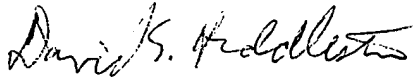
For the above reasons, the Applicant submits that the specification and claims are now in proper form and that the claims all define patentability over the prior art.

Therefore they submit that this application is now in condition for allowance, which action they respectfully request.

Conditional Request For Constructive Assistance

The Applicant has amended the specification and claims so that they are proper and definite, and define a novel and unobvious invention. If for any reason this application is not believed to be in proper condition for allowance, the Applicant respectfully requests the constructive assistance and suggestions of the Examiner pursuant to MPEP § 2173.02 and § 707.07(j) in order that the undersigned can place this application in allowable condition as soon as possible and without need for further processing.


Very Respectfully,



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